

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

CRISTINA FERNANDEZ CRUZ,

Plaintiff,

v.

NILDA J. MAYPA, MICHELLE BARBA
(AKA MICHELLE MAYPA), and
FERDINAND BARBA,

Defendants.

Case No. 1:13-cv-00862-CMH-IDD

**DEFENDANTS' ANSWER TO COUNTS ONE, TWO AND THREE
OF PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendants Nilda J. Maypa, Michelle Barba, and Ferdinand Barba respond to Counts one, two and three of plaintiff Cristina Fernandez Cruz's First Amended Complaint as follows:

AFFIRMATIVE DEFENSES

1. Some or all of the causes of action may be barred by the applicable statute of limitations.
2. Defendants Michelle Barba and Ferdinand Barba were not employers of plaintiff Christina Cruz within the meaning of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 206, 216.
3. Some or all of the causes of action may be barred by the doctrine of accord and satisfaction.

ITEMIZED RESPONSES

INTRODUCTION

1. Defendants deny the allegations of paragraph one.
2. Defendants deny the allegations of paragraph two.
3. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph three.
4. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph four.
5. Defendants deny the allegations of paragraph five.
6. Defendants deny the allegations of paragraph six.
7. Defendants deny the allegations of paragraph seven.
8. Defendants deny the allegations of paragraph eight.

BACKGROUND

9. Defendants deny the allegation of the first sentence of paragraph nine, and are without knowledge to either admit or deny the allegations of the second sentence of paragraph nine.
10. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph ten.
11. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 11.

JURISDICTION AND VENUE

12. Defendants admit the allegations of paragraph 12.
13. Defendants admit the allegations of paragraph 13.

THE PARTIES

14. Defendants admit the allegations of paragraph 14.
15. Defendants admit the allegations of paragraph 15.
16. Defendants admit the allegations of paragraph 16.
17. Defendants admit the allegations of paragraph 17.
18. Defendants admit the allegations of paragraph 18.

ALLEGATIONS OF FACT

A. **Defendants trafficked Ms. Cruz to the United States from the Philippines**

19. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 19.
20. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 20.
21. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 21.
22. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 22.
23. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 23.
24. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 24.
25. The contract attached as Exhibit A speaks for itself, and therefore no response is necessary to paragraph 25.

26. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 26.

27. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 27.

28. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 28.

29. Defendants deny the allegations of paragraph 29.

30. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 30.

31. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 31.

32. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 32.

33. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 33.

34. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 34.

35. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 35.

36. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 36.

B. Defendant Maypa retained Ms. Cruz's passport and refused her request to return it

37. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 37.
38. Defendants deny the allegations of paragraph 38.
39. Defendants deny the allegations of paragraph 39.
40. Defendants deny the allegations of paragraph 40.
41. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 41.
42. Defendants deny the allegations of the first two sentences of paragraph 42, and are without knowledge to either admit or deny the allegations of the third sentence of paragraph 42.
43. Defendants deny the allegations of paragraph 43.

C. Defendants forced Ms. Cruz to work excessive hours and paid her meager wages despite their promises

44. Defendants deny the allegations of paragraph 44.
45. The contracts attached as Exhibit 2, 3 and 4 speak for themselves, and therefore no response is necessary to portions of paragraph 45. Defendant Maypa denies the remaining allegations of paragraph 45.
46. Defendants deny the allegations of paragraph 46.
47. Defendants deny the allegations of paragraph 47.
48. Defendants deny the allegations of paragraph 48.
49. Defendants deny the allegations of paragraph 49.
50. Defendants deny the allegations of paragraph 50.
51. Defendants deny the allegations of paragraph 51.

52. Defendants deny the allegations of paragraph 52.
53. Defendants deny the allegations of paragraph 53.
54. Defendants deny the allegations of paragraph 54.
55. Defendants deny the allegations of paragraph 55.

D. Living conditions and medical care

56. Defendants deny the allegations of paragraph 56.
57. Defendants deny the allegations of paragraph 57.
58. Defendants deny the allegations of paragraph 58.
59. Defendants deny the allegations of paragraph 59.
60. Defendants deny the allegations of paragraph 60.
61. Defendants deny the allegations of paragraph 61.
62. Defendants deny the allegations of paragraph 62.
63. Defendants deny the allegations of paragraph 63.

E. Defendants isolate Ms. Cruz in their rural Virginia home

64. Defendants deny the allegations of paragraph 64.
65. Defendants deny the allegations of paragraph 65.
66. Defendants deny the allegations of paragraph 66.
67. Defendants deny the allegations of paragraph 67.
68. Defendants deny the allegations of paragraph 68.
69. Defendants deny the allegations of paragraph 69.

F. Ms. Cruz escaped defendants' house

70. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 70.

71. Defendants deny the allegations of paragraph 71.

G. Prolonged emotional and psychological harm suffered by Ms. Cruz

72. Defendants deny the allegations of paragraph 72.

73. Defendants deny the allegations of paragraph 73.

74. Defendants deny the allegations of paragraph 74.

CLAIMS FOR RELIEF

COUNT I

**(Forced labor in violation of the Victims of Trafficking and Violence Protection Act of 2000
("TVPA"), 18 U.S.C. §§ 1589, 1595)**

(Against All Defendants)

75. Paragraph 75 cites paragraphs 1 through 74, and these defendants rely on responses already provided.

76. The statute speaks for itself, and therefore no response is necessary to paragraph 76.

77. Defendants deny the allegations of paragraph 77.

78. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 78.

79. Defendants deny the allegations of paragraph 79.

80. Defendants deny the allegations of paragraph 80.

COUNT II

**(Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor in
violation of the TVPA, 18 U.S.C. §§ 1590, 1595)**

(Against All Defendants)

81. Paragraph 81 cites paragraphs 1 through 80, and these defendants rely on responses already provided.

82. The statute speaks for itself, and therefore no response is necessary to paragraph 82.

83. Defendants deny the allegations of paragraph 83.
84. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 84.
85. Defendants deny the allegations of paragraph 85.
86. Defendants deny the allegations of paragraph 86.

COUNT III

**(Failure to pay federal minimum wage in violation of the Fair Labor Standards Act
("FLSA"), 29 U.S.C. §§ 206, 216)**

(Against All Defendants)

87. Paragraph 87 cites paragraphs 1 through 86, and these defendants rely on responses already provided.
88. The statute speaks for itself, and therefore no response is necessary to paragraph 88.
89. Defendants deny the allegations of paragraph 89.
90. Defendants deny the allegations of paragraph 90.
91. Defendants deny the allegations of paragraph 91.
92. The statute speaks for itself, and therefore no response is necessary to paragraph 92.
93. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 93.
94. Defendants are without knowledge sufficient to either admit or deny the allegations of paragraph 94.
95. Defendants deny the allegations of paragraph 95.

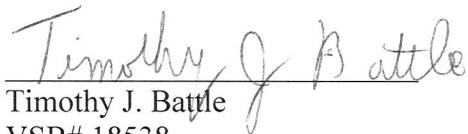
PRAYER FOR RELIEF

126. Defendants deny the allegations of paragraph 126 and deny that there is any liability to the plaintiff for any amount of money, and ask for all costs expended in defense.

DEMAND FOR JURY TRIAL

127. Defendants acknowledge the demand for a jury trial on all issues so triable.

Respectfully submitted,



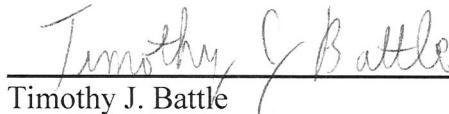
Timothy J. Battle
VSB# 18538
524 King Street
Alexandria, VA 22320-4593
(703) 836-1216 Tel
(703) 549-3335 Fax
tjbattle@verizon.net
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Eastern District of Virginia using the CM/ECF system on February 23, 2015. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system, which will send an electronic notification of such filing to the following counsel of record:

Joseph D. West VSB No. 16834
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036
Telephone: 202.955.8500
Facsimile: 202.467.0539
jwest@gibsondunn.com

Respectfully submitted,



Timothy J. Battle
VSB# 18538
524 King Street
Alexandria, VA 22320-4593
(703) 836-1216 Tel
(703) 549-3335 Fax
tjbattle@verizon.net
Counsel for Defendants